IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No.1408 of 2006

Date of decision : 22.10.2016

Mamta Khanna and others

.....Appellants

Versus

Rajesh and others

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. Ashwani Arora, Advocate for appellants.

Mr. Vipul Sharma, Advocate for
Mr. Paul S. Saini, Advocate for
respondent No.3-Insurance Company.

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DARSHAN SINGH, J.

The present appeal has been preferred by the appellants-claimants against the award dated 08.10.2005, passed by learned Motor Accidents Claims Tribunal, Chandigarh (hereinafter called the "Tribunal"), vide which they have been awarded compensation to the tune of ₹9,84,500/- on account of the death of Rajiv Khanna in the motor vehicular accident which took place on 12.05.2002.

2. The present appeal has been preferred by the appellants-claimants for the enhancement of the amount of compensation.

3. I have heard learned counsel for the parties and gone through the record of the case meticulously.

4. Learned counsel for the appellants-claimants contended that

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the learned Tribunal has not added any future prospects to the income of the deceased. The deceased was less than 45 years of age. So, 30% of his income should have been added towards future prospects. He further contended that less amount has been awarded towards other conventional heads and no amount has been awarded to the minor children of the deceased towards loss of love and affection. Thus, he contended that the compensation awarded by the learned Tribunal is not just and adequate.

5. On the other hand, learned counsel appearing for respondent-Insurance Company contended that the deceased was not having any permanent job, so future prospects were not admissible towards his income. He further contended that the compensation awarded by the learned Tribunal is just and appropriate keeping in view the antecedents, age and income of the deceased.

6. I have duly considered the aforesaid contentions.

7. As per the case of the claimants, deceased Rajiv Khanna was running a business. He was dealing in Videocon and Blue-star products. He had his own workshop of air-conditioners, refrigerators etc. The claimants have brought on record the copy of income tax returns of the deceased Ex.PW8/A and Ex.PW8/B. Taking into consideration the oral as well as documentary evidence brought on record, the learned Tribunal has taken the income of the deceased to be ₹95,320/- per annum as mentioned in his income tax returns, but the learned Tribunal has not awarded any future prospects towards the income of the deceased. The deceased was a businessman. He was having the workshop of air-conditioners and refrigerator etc. So, his income was bound to increase. Even the income tax

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returns Ex.PW8/A and Ex.PW8/B brought on record by the claimants shows that there was increasing trend in the income of the deceased. Thus, the future prospects should have been added to the income of the deceased. In view of the age of the deceased, as he was in the age group of 40 to 50, 30% of his income should be added to his income as future prospects. So, the total income of the deceased comes to ₹1,23,916/- (95,320 + 28,596). To make it a round figure, we can take it as ₹1,23,900/-. Keeping in view, the number of dependents, 1/3rd of his income shall be deducted towards his personal and living expenses. The remainder comes to ₹82,600/-. In view of the age of the deceased, the multiplier of 14 shall be applicable. So, the loss of dependency comes to ₹11,56,400/-.

8. The learned Tribunal has also awarded very less amount towards other conventional heads. The learned Tribunal has only awarded a total sum of ₹9500/- for loss of consortium, loss to estate and funeral expenses, which is very less and required to be enhanced. Appellant-claimant No.1 Smt. Mamta Khanna, the widow of the deceased will be entitled to a sum of ₹1,00,000/- towards loss of consortium. Appellants-claimants No.2 to 3, the children of the deceased shall also be entitled to a sum of ₹1,00,000/- towards loss of love, care and guidance of their father. Besides, the appellants-claimants shall also be entitled to a sum of ₹25,000/- towards last rites and funeral expenses. They will also be entitled to ₹10,000/- towards loss to estate. The total amount of compensation payable to the claimants comes to ₹13,91,400/-.

9. Thus, keeping in view my aforesaid discussion, the present appeal is hereby partly allowed. The amount of compensation payable to

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appellants-claimants is enhanced to ₹13,91,400/- from ₹9,84,500/- as awarded by the Tribunal. The enhanced amount of compensation be deposited with the learned Tribunal within a period of 60 days from today, failing which the appellants-claimants shall be entitled to interest @ 7.5% per annum from the date of filing the claim petition till realisation. The liability to pay the enhanced amount and the apportionment amongst the claimants shall remain as determined by the learned Tribunal in the main award.

22.10.2016 **(DARSHAN SINGH)**
sunil yadav **JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No

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